

Remarks

Claims 46 and 48-52 were examined in the Final Office Action of February 20, 2004. With this Amendment and Reply, applicants cancel claims 47 and 49 and amend claims 46 and 50 to more particularly point out and distinctly claim the invention.

Rejections under 35 U.S.C. 112, second paragraph

Claims 46 and 48-51 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite for alleged lack of clarity regarding the use of the term "transforming". Applicants respectfully request reconsideration and withdrawal of this rejection because the claims as amended are clear that the mycobacterium is being transformed.

Claims 46, 48, and 51 stand rejected under 35 U.S.C. 112, second paragraph as allegedly omitting essential steps for not providing a method of induction. Applicants respectfully request reconsideration and withdrawal of this rejection because the claims as amended require that the induction of the *iniB* promoter causes expression of a reporter gene.

Claims 46 and 48-52 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite for alleged lack of clarity regarding the meaning of "a nucleotide sequence". Applicants respectfully request reconsideration and withdrawal of this rejection because the claims as amended no longer have the phrase "a nucleotide sequence".

Conclusions

Applicants thank Examiner Swartz for the telephone discussion with the undersigned attorney on May 19, 2004. It is believed that the present amendments are consistent with that discussion. Applicants therefore request passage of the claims to allowance. However, should there be minor matters that prevent allowance, applicants request that Examiner Swartz contact the undersigned attorney.

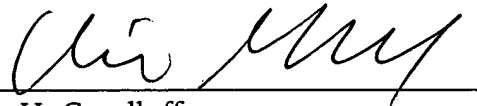
Appl. No. 09/918,951
Amdt. dated May 20, 2004
Reply to Office Action of February 20, 2004

It is believed that no fee is required for this Reply. However, if there are unanticipated fees required to maintain the pendency of this application, the PTO is authorized to withdraw those fees from Deposit Account 01-1785. Overcharges may also be credited to Deposit Account 01-1785.

Respectfully submitted

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicant
90 Park Avenue
New York, NY 10016
(212) 336-8000

Dated: New York, New York
May 20, 2004

By: 
Elie H. Gendloff
Registration No.: 44,704